

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE: COLLEGE ATHLETE NIL
LITIGATION

Case No. 20-cv-03919 CW

**ORDER GRANTING MOTION TO
MODIFY CASE SCHEDULE**

(Re: Dkt. No. 184)

Now before the Court is Plaintiffs' motion under Federal Rule of Civil Procedure 16(b) to modify the case schedule set in the November 5, 2021, stipulation and order, Docket No. 175. Defendants oppose the motion. For the reasons set forth below, the Court GRANTS the motion.

Federal Rule of Civil Procedure 16(b)(4) provides that a case management schedule can be modified "only for good cause and with the judge's consent." The Ninth Circuit has stated that the "'good cause' standard primarily considers the diligence of the party seeking the amendment. The district court may modify the pretrial schedule 'if it cannot reasonably be met despite the diligence of the party seeking the extension.'" *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992) (citation omitted). "Although the existence or degree of prejudice to the party opposing the modification might supply additional reasons to deny a motion, the focus of the inquiry is upon the moving party's reasons for seeking modification." *Id.* (citation omitted).

Plaintiffs request a four-month extension of the case deadlines, including the briefing deadlines for class certification, on the ground that Plaintiffs need for their class certification expert reports data regarding the impact of July 2021 amendments to the rules that govern the potential compensation that student-athletes can receive for the use of their names, images, and likenesses (NIL). Plaintiffs argue that this data is relevant to their class certification showing that injury exists on a classwide basis. Plaintiffs contend that they have been diligent in seeking this

1 data, which is not in Defendants' possession, and that they have subpoenaed more than 150
2 schools and third parties since September 2021. Plaintiffs argue that they faced challenges in
3 obtaining responses to their subpoenas as a result of having to obtain data and information from
4 many sources, and as a result of having to negotiate confidentiality protections as to student-
5 specific data in light of the Family Educational Rights and Privacy Act.

6 Defendants oppose the motion, arguing that they agreed in November 2021 to extend the
7 case deadlines by seven months after Plaintiffs requested an extension following the July 2021
8 modifications to the NIL rules. Defendants further argue that Plaintiffs have not been diligent in
9 seeking discovery from schools and other third parties, because they did not begin to serve
10 subpoenas until three months after the July 2021 NIL rule modifications and Plaintiffs have served
11 additional third-party discovery requests since then. Defendants also argue that they would be
12 prejudiced if the Court grants the requested extension because it would result in Defendants being
13 forced to spend additional time and money on discovery. If the Court is inclined to grant the
14 requested extension, Defendants request that the Court prohibit Plaintiffs from seeking any further
15 extensions to class certification briefing deadlines and prohibit Plaintiffs from serving any further
16 requests for production on Defendants until after a ruling on class certification.


17 The Court finds that Plaintiffs have shown good cause for extending the case deadlines by
18 approximately four months. The Court is persuaded that Plaintiffs have been diligent in seeking
19 NIL-compensation data and information from third parties and that this data and information are
20 relevant to the class certification inquiry. The Court is further persuaded that, despite Plaintiffs'
21 diligence, Plaintiffs will not be able to gather the NIL-compensation data and information they
22 need under the current deadlines. Accordingly, the Court finds that an extension of the case
23 deadlines of approximately four months is appropriate. The Court adopts the revised case
24 schedule proposed by Plaintiffs, which is reproduced below:

EVENT	CURRENT DATE	MODIFIED DATE
Class Certification Motion and Supporting Expert Reports	June 22, 2022	October 21, 2022
Deadline to Depose Plaintiffs' Class Experts	September 12, 2022	January 11, 2023
Class Certification Opposition and Supporting Expert Reports	October 12, 2022	February 10, 2023
Deadline to Depose Defendants' Class Experts	November 25, 2022	March 25, 2023
Class Certification Reply and Expert Rebuttal Report	December 14, 2022	April 14, 2023
Deadline for Supplemental Depositions of Plaintiffs' Class Experts	No supplemental depositions shall be permitted without agreement of the parties or leave of the Court	No supplemental depositions shall be permitted without agreement of the parties or leave of the Court
Hearing on Class Certification	January 25, 2023 at 2:30pm or at the Court's convenience	May 24, 2023 at 2:30pm or at the Court's convenience
Merits Discovery Cut-Off	March 27, 2023	July 26, 2023
Merits Expert Disclosure (Including Reports) on Issues at to Which Party Bears the Burden at Trial	May 1, 2023	August 30, 2023
Merits Expert Response	June 27, 2023	October 26, 2023
Merits Expert Reply	July 24, 2023	November 22, 2023
Expert Discovery Cut-Off	August 28, 2023	December 27, 2023
Plaintiffs' Dispositive Motion and <i>Daubert</i> Motions	October 2, 2023	January 31, 2024
Defendants' (1) Opposition to Plaintiffs' Dispositive Motion and <i>Daubert</i> Motions and (2) Dispositive Motion and <i>Daubert</i> Motions	November 15, 2023	March 15, 2024
Plaintiffs' (1) Reply in Support of their Dispositive Motion and <i>Daubert</i> Motions and (2) Opposition to Defendants' Dispositive Motion and <i>Daubert</i> Motions	December 28, 2023	April 26, 2024

1	Defendants' Reply in Support of their Dispositive Motion and <i>Daubert</i> Motions	January 25, 2024	May 24, 2024
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3	Hearing on All Dispositive and <i>Daubert</i> Motions and Further Case Management Conference	March 27, 2024 at 2:30pm or at the Court's convenience	July 24, 2024 at 2:30pm or at the Court's convenience
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5	Trial Date	May 20, 2024	September 16, 2024

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7 IT IS SO ORDERED.

8 Dated: 4/8/2022



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CLAUDIA WILKEN
United States District Judge